

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

YOLANDA R. EFFINGER

Plaintiff,

v.

WINN DIXIE MONTGOMERY, INC.

Defendant.

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Case No. 2:07-CV-657-ID-TFM

**NOTICE OF MOTION AND PLAINTIFF'S MOTION TO COMPEL
RESPONSES TO PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION**

Pursuant to Federal Rule of Civil Procedure 37, plaintiff moves the court for an order compelling defendant to fully, properly and completely answer Plaintiff's First Requests for Production. The requested documents and corresponding request numbers are:

Request 3. Incident report or accident report of fall in question.

Request 4. Witness statements regarding plaintiff's fall.

Request 6. Computer or electronic records which support defenses

Request 13. Incident reports involving falls on defendant premises for 2005 and 2006.

Request 14. Slip and fall claims against defendant at subject premises For 2005 and 2006.

Request 15. Court complaints against defendant for slip and fall claims for 2005 and 2006.

Request 16. Depositions by Defendant, its agent or employees regarding slip and fall claims at subject premises for 2005 and 2006.

This motion is made on the basis that the requested documents are non-privileged and are reasonably calculated to lead to the discovery of admissible evidence and defendant has failed and refused and still refuses to provided such documents and records.

This motion is also based on this Notice of Motion, the memorandum in support hereof, and all other papers and arguments plaintiff submits or makes with this submission.

CERTIFICATION OF COUNSEL

I hereby certify that the parties have conferred in a good faith attempt to settle this discovery dispute but are at polar opposites. Upon receipt of defendant's responses on November 30, 2007, plaintiff's counsel wrote a letter to defendant (Exhibit A attached) outlining his objections and requesting defendant's compliance. Since Plaintiff has until December 29, 2007 to amend her pleadings and add parties, defendant was requested to simply agree to comply with F.R.C.P. 33 within a reasonable time.

Defendant replied to plaintiff on December 5, 2007 by letter (Exhibit B attached) essentially stating that it had complied with F.R.C.P. 33.

Undersigned counsel for plaintiff does not foresee the parties being able to voluntarily resolve this discovery dispute.

Wherefore, prays that the court grants this motion, and grant her whatever further and additional relief to which she is entitled.

Respectfully submitted this 6th day of December, 2007.

/s/ Ronald B. Hatcher

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PROOF OF SERVICE

I hereby certify that a copy of the foregoing Notice and Motion to Compel Answers to Plaintiff's First Requests for Production, together with attached Memorandum in Support Thereof, and Exhibits, was served on counsel for defendant by e-mail and regular U. S. Mail as follows:

Atty. Randall Morgan
Hill, Hill, Carter
rmorgan@HillHillCarter.com
P. O. Box 116
Montgomery, AL 36101

This 6th day of December, 2007.

/s/ Ronald B. Hatcher

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